

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Gold Coast Broadcasting Company)	File Number EB-02-LA-091
Santa Monica, California)	NAL/Acct.No.200232900003
)	FRN 0007-0166-52
Antenna Structure Registration No. 1019626)	
Ventura, California)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 25, 2002

By the Enforcement Bureau, Los Angeles Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Gold Coast Broadcasting Company ("Gold Coast"), the registered owner of Antenna Structure Registration (ASR) number 1019626 in Ventura, California apparently willfully violated Section 17.50 of the Federal Communications Commission's ("FCC") Rules¹ by failing to maintain specified painting on the antenna structure. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),² that Gold Coast is apparently liable for forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On February 14, 2002, agents from the FCC Enforcement Bureau's Los Angeles Field Office inspected the four tower array for Gold Coast station KUNX-AM in Ventura, California. The agents observed that the required painting on the #1 North antenna structure, ASR number 1019626, was faded and oxidized such that it failed to maintain good visibility.

3. On March 4, 2002, the Los Angeles Office issued a Notice of Violation to Gold Coast for ASR number 1019626 being faded and oxidized in violation of the Rules. On March 19, 2002, Gold Coast replied that they had hired an antenna structure contractor to re-paint the tower as prescribed by the Rules. On March 26, 2002, Gold Coast reported that the re-painting of ASR number 1019626 would be completed on March 30, 2002.

III. DISCUSSION

4. Section 503(b) of the Act provides that any person who willfully fails to comply substantially

¹ 47 C.F.R. § 17.50

² 47 U.S.C. § 503(b).

with the terms and conditions of any license, or willfully fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term "willful" as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.³

5. Section 17.50 of the Rules states that "[a]ntenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility." The ASR for this structure specifies painting requirements. At the time of the inspection, the tower paint was faded and oxidized such that it failed to provide good visibility.

6. Based on the evidence before us, we find that on February 14, 2002, Gold Coast willfully violated Section 17.50 of the Rules. Gold Coast failed to clean or repaint its antenna structure as often as necessary to maintain good visibility.

7. Pursuant to Section 1.80(b)(4) of the Rules and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, ("Forfeiture Policy Statement"),⁴ the base forfeiture amount for failure to comply with prescribed lighting and/or marking is \$10,000.⁵ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 ("Act"), as amended, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Considering the entire record and applying the statutory factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules, Gold Coast Broadcasting Company, is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000.00) for willful violation of Section 17.50 of the Rules.⁷

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Gold Coast Broadcasting Company, SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁵ 47 C.F.R. § 1.80(b)(4).

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80 and 17.50.

Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FRN 0007-0166-52 and the NAL/Acct. No. 200232900003.

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE FRN 0007-0166-52 and NAL/Acct. No. 200232900003.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, SW, Washington, D.C. 20554.⁸

14. IT IS FURTHER ORDERED THAT this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Gold Coast Broadcasting Company, 715 Broadway, Suite 320, Santa Monica, CA 90401.

FEDERAL COMMUNICATIONS COMMISSION

Catherine Deaton
District Director, Enforcement Bureau

⁸ See 47 C.F.R. § 1.1914.